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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,895	03/12/2004	Kelly L. Runk	061270-0914	6086

22428 7590 11/05/2004

FOLEY AND LARDNER
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WASHINGTON, DC 20007

EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,895

Applicant(s)

RUNK, KELLY L.

Examiner

Rodney B. White

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/2/04 and 10/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 2 and 12 objected to because of the following informalities: In claim 2, line 3, and claim 12, line 3, the word "like" should probably be changed to - - corresponding - -. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

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Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Pepys et al (U.S. Patent No. 5,735,576).

Pepys et al teach a cover comprising a pad sized and contoured to substantially conform to the seat and including a bottom portion, a backrest portion joined to the bottom portion, and two side bolster 12,14 portions joined to the backrest portion and the bottom portion; a crotch slot 23 through the bottom portion of the pad to accommodate the buckle assembly; a pair of side slots through the pad, each side slot extending at least partially along the junction between the backrest portion and a respective side bolster portion; a pair of back slots 51,52,53,54 through the backrest portion of the pad to accommodate the respective shoulder straps, each of the back slots extending outwardly to the adjacent side slot; and mating separable fastening elements 31,32,33,34,35,36,37,38,39,40,41,42 at the margins of each of the side slots to releasably close the side slots, the fastening elements comprising hook and loop fasteners, and a pair of release slots through the pad at each side thereof, each release slot having mating separable fastening elements 31,32,33,34,35,36,37,38,39,40,41,42 9since this pad is reconfigurable to accommodate children of various sizes, as shown in

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Figures 3-4) at its margins and extending from the respective side slot to an adjacent outer side edge of the pad, each release slot meets a bottom of the respective side slot.

Claims 1-2, 4-5, and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Gold et al (U.S. Patent No. 6,752,457 B2).

Gold et al teach a cover comprising a pad sized and contoured to substantially conform to the seat and including a bottom portion, a backrest portion joined to the bottom portion, and two side bolster 12,14 portions joined to the backrest portion and the bottom portion; a crotch slot 36 through the bottom portion of the pad to accommodate the buckle assembly; a pair of side slots through the pad, each side slot extending at least partially along the junction between the backrest portion and a respective side bolster portion; a pair of back slots 20,22,24,26 through the backrest portion of the pad to accommodate the respective shoulder straps, each of the back slots extending outwardly to the adjacent side slot; and mating separable fastening elements 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 80,82,84,86,88,90, 92,94,96,98 at the margins of each of the side slots to releasably close the side slots, and a pair of release slots through the pad at each side thereof, each release slot having mating separable fastening elements 62,64,66,68,70,72,74,76 at its margins and extending from the respective side slot to an adjacent outer side edge of the pad, each release slot meets a bottom of the respective side slot.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold et al in view of Pepys et al (U.S. Patent No. 5,735,576).

Gold et al teaches the structure substantially as claimed but does not teach that the fastening elements are hook and loop fasteners. However, Pepys et al teaches a structure almost identical to the present invention that uses hook and loop fasteners. It would have been obvious and well within the level of ordinary skill in the art to modify the margins of the cover's side slots, as taught by Gold et al, to include hook and loop fasteners, as taught by Pepys et al, since one is an alternative conventional method of the other and because the hook and loop fasteners might prove to be easier and quicker to fasten and unfasten.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold et al in view of Noble (U.S. Patent No. 5,842,739).

Gold et al teaches the structure substantially as claimed but does not teach lap strap slots. However, Noble teaches lap strap slots 64,66 to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the pad, as taught by Gold et al, to include lap strap slots, as taught by Noble, since such slots would allow

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for the accommodation of lap straps of a child safety seat with a 5-point harness system.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pepys et al in view of Noble (U.S. Patent No. 5,842,739).

pepys et al teaches the structure substantially as claimed but does not teach lap strap slots. However, Noble teaches lap strap slots 64,66 to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the pad, as taught by Pepys et al, to include lap strap slots, as taught by Noble, since such slots would allow for the accommodation of lap straps of a child safety seat with a 5-point harness system.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gold, Ive, Dunne et al, and Kassai et al teach structures similar to the present invention.

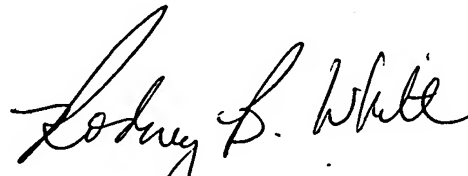
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
November 1, 2004



RODNEY B. WHITE
PRIMARY EXAMINER